

104TH CONGRESS
1ST SESSION

S. 515

To amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through the reduction of harmful substances in meat and poultry that present a threat to public health, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7 (legislative day, MARCH 6), 1995

Mr. BRADLEY introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through the reduction of harmful substances in meat and poultry that present a threat to public health, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Family Food Protection Act of 1995”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Findings.

TITLE I—MEAT INSPECTION

- Sec. 101. References to the Federal Meat Inspection Act.
 Sec. 102. Definitions.
 Sec. 103. Inspection of meat and meat food products.
 Sec. 104. Post mortem examination of carcasses and marking or labeling.
 Sec. 105. Storage and handling regulations.
 Sec. 106. Federal and State cooperation.
 Sec. 107. Auxiliary provisions.
 Sec. 108. Reducing adulteration of meat and meat food products.

TITLE II—POULTRY INSPECTION

- Sec. 201. References to the Poultry Products Inspection Act.
 Sec. 202. Definitions.
 Sec. 203. Federal and State cooperation.
 Sec. 204. Ante mortem and post mortem inspection, reinspection, and quarantine.
 Sec. 205. Exemptions.
 Sec. 206. Reducing adulteration of poultry and poultry products.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) bacterial foodborne illness exacts a terrible
 4 toll on United States citizens, taking approximately
 5 9,000 lives each year and causing between 6,500,000
 6 and 80,000,000 illnesses;

7 (2) meat and meat food products, and poultry
 8 and poultry products, contaminated with pathogenic
 9 bacteria are a leading cause of foodborne illness;

10 (3) foodborne illness related to meat and poul-
 11 try cost Americans between \$2,000,000,000 and
 12 \$4,000,000,000 each year in medical expenses and
 13 lost wages;

14 (4) the number of illnesses and deaths associ-
 15 ated with adulterated meat and poultry undermines

1 public confidence in the food supply of the United
2 States and tends to destroy both domestic and for-
3 eign markets for wholesome meat and poultry;

4 (5) the meat and poultry inspection system
5 costs United States taxpayers approximately
6 \$600,000,000 per year but does not provide ade-
7 quate protection against foodborne illness because
8 the system does not test for and limit the presence
9 of disease-causing bacteria;

10 (6) the Federal Government must—

11 (A) set levels of disease-causing bacteria
12 above which meat and meat food products and
13 poultry and poultry products are determined to
14 be unsafe for human consumption and adulter-
15 ated; and

16 (B) remove the products from commerce
17 unless and until the products are made safe;

18 (7) beginning with the National Academy of
19 Sciences report entitled “Meat and Poultry: The Sci-
20 entific Basis for the Nation’s Program”, the United
21 States Department of Agriculture has been urged to
22 shift from organoleptic inspection to inspection
23 based on the detection and limitation of disease-
24 causing bacteria;

1 (8) to sustain the confidence of the people of
2 the United States and justify the expenditure of tax
3 dollars, the inspection system must—

4 (A) be based on sound application of mod-
5 ern science;

6 (B) effectively protect human health;

7 (C) be open to public scrutiny;

8 (D) create incentives for high standards;

9 (E) provide for fines for failure to meet
10 standards; and

11 (F) assess severe penalties for intentional
12 violation of the law;

13 (9) a modern system of meat and poultry in-
14 spection should extend from farm to table and re-
15 quire livestock and poultry producers, handlers,
16 processors, distributors, transporters, and retailers
17 to assume responsibility for handling livestock, meat,
18 meat food products, poultry, and poultry products in
19 such a way as to limit contamination to a level that
20 will not endanger human health;

21 (10) to effectively protect human health, there
22 must be an orderly transition from the system of in-
23 spection in effect on the date of enactment of this
24 Act to a new system based on preventive controls
25 that are designed to limit the presence of disease-

1 causing bacteria on meat, meat food products, poul-
2 try, and poultry products, and the efficacy of the
3 new system must be demonstrated by pilot projects;

4 (11)(A) consumer confidence is further under-
5 mined by the “USDA Inspected and Passed” seal
6 that appears on every package of meat or a meat
7 food product and the “USDA Inspected for Whole-
8 someness” seal that appears on every package of
9 poultry and poultry products, a seal that misleads
10 consumers into believing the products are safe when
11 the products often are contaminated with disease-
12 causing bacteria; and

13 (B) the Federal Government should not affix a
14 seal that misleads consumers and may increase the
15 incidence of foodborne illness and death; and

16 (12)(A) all articles and other animals that are
17 subject to the Federal Meat Inspection Act (21
18 U.S.C. 601 et seq.) and the Poultry Products In-
19 spection Act (21 U.S.C. 451 et seq.) are in inter-
20 state or foreign commerce or substantially affect
21 commerce; and

22 (B) regulation by the Secretary of Agriculture
23 and cooperation by the States, consistent with this
24 Act and the amendments made by this Act, are nec-
25 essary to prevent or eliminate burdens on commerce

1 and to protect the health and welfare of consumers
2 of the United States.

3 **TITLE I—MEAT INSPECTION**

4 **SEC. 101. REFERENCES TO THE FEDERAL MEAT INSPEC-** 5 **TION ACT.**

6 Whenever in this title an amendment or repeal is ex-
7 pressed in terms of an amendment to, or repeal of, a sec-
8 tion or other provision, the reference shall be considered
9 to be made to a section or other provision of the Federal
10 Meat Inspection Act (21 U.S.C. 601 et seq.), except to
11 the extent otherwise specifically provided.

12 **SEC. 102. DEFINITIONS.**

13 (a) ADULTERATED.—Section 1(m)(1) (21 U.S.C.
14 601(m)(1)) is amended to read as follows:

15 “(1) if it bears or contains a poisonous or dele-
16 terious substance that may render it injurious to
17 health, except that, in the case of a substance that
18 is not an added substance, the article shall be con-
19 sidered adulterated under this subsection if there is
20 a reasonable probability that the quantity of the sub-
21 stance in the article will cause adverse health con-
22 sequences;”.

23 (b) ADDED SUBSTANCE; OFFICIAL ESTABLISH-
24 MENT.—Section 1 is amended by adding at the end the
25 following:

1 “(w) The term ‘added substance’—

2 “(1) means a substance that is not an inherent
3 constituent of a food and whose intended use results,
4 or may reasonably be expected to result, directly or
5 indirectly, in the substance becoming a component
6 of, or otherwise affecting the characteristics of, the
7 food; and

8 “(2) includes—

9 “(A) a substance that is intentionally
10 added to any food; or

11 “(B) a substance that is the result of mi-
12 crobial, viral, environmental, agricultural, in-
13 dustrial, or other contamination.

14 “(x) The term ‘official establishment’ means an es-
15 tablishment at which inspection of the slaughter of cattle,
16 sheep, swine, goats, mules, and other equines, or the proc-
17 essing of meat and meat food products of the animals,
18 is maintained in accordance with this Act.”.

19 **SEC. 103. STORAGE AND HANDLING REGULATIONS.**

20 The last sentence of section 24 (21 U.S.C. 624) is
21 amended by inserting before the period at the end the fol-
22 lowing: “, except that regulations issued under section 503
23 shall apply to a retail store or other type of retail estab-
24 lishment”.

1 **SEC. 104. FEDERAL AND STATE COOPERATION.**

2 Section 301(c) (21 U.S.C. 661(c)) is amended—

3 (1) in paragraph (1)—

4 (A) in the first sentence—

5 (i) by inserting after “the Wholesome
6 Meat Act,” the following: “or by 30 days
7 prior to the expiration of the 2-year period
8 beginning on the date of enactment of the
9 Family Food Protection Act of 1995,”;
10 and

11 (ii) by striking “title I and IV” and
12 inserting “titles I, IV, and V”;

13 (B) by striking “titles I and IV” each
14 place it appears and inserting “titles I, IV, and
15 V”; and

16 (C) by striking “title I and title IV” each
17 place it appears and inserting “titles I, IV, and
18 V”; and

19 (2) in paragraph (3), by striking “titles I and
20 IV” each place it appears and inserting “titles I, IV,
21 and V”.

22 **SEC. 105. AUXILIARY PROVISIONS.**

23 Sections 402 and 403 (21 U.S.C. 672 and 673) are
24 amended by striking “title I or II” each place it appears
25 and inserting “title I, II, or V”.

1 **SEC. 106. REDUCING ADULTERATION OF MEAT AND MEAT**
2 **FOOD PRODUCTS.**

3 The Act (21 U.S.C. 601 et seq.) is amended by add-
4 ing at the end the following:

5 **“TITLE V—REDUCING ADULTER-**
6 **ATION OF MEAT AND MEAT**
7 **FOOD PRODUCTS**

8 **“SEC. 501. REDUCING ADULTERATION OF MEAT AND MEAT**
9 **FOOD PRODUCTS.**

10 “(a) IN GENERAL.—On the basis of the best available
11 scientific and technological data, the Secretary shall issue
12 regulations to—

13 “(1) limit the presence of human pathogens and
14 other potentially harmful substances in cattle, sheep,
15 swine, or goats, or horses, mules, or other equines
16 at the time the animals are presented for slaughter;

17 “(2) ensure that appropriate measures are
18 taken to control and reduce the presence and growth
19 of human pathogens and other potentially harmful
20 substances on carcasses and parts of carcasses and
21 on meat or meat food products derived from the ani-
22 mals prepared in any official establishment;

23 “(3) ensure that all ready-to-eat meat or meat
24 food products prepared in any official establishment
25 preparing the meat or food product for distribution
26 in commerce are processed in such a manner as to

1 destroy any human pathogens and other potentially
2 harmful substances that are likely to cause
3 foodborne illness; and

4 “(4) ensure that meat and meat food products,
5 other than meat and meat food products referred to
6 in paragraph (3), prepared at any official establish-
7 ment preparing meat or a meat food product for dis-
8 tribution in commerce are labeled with instructions
9 for handling and preparation for consumption that,
10 when adhered to, will destroy any human pathogens
11 or other potentially harmful substances that are like-
12 ly to cause foodborne illness.

13 “(b) NONCOMPLIANCE.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), a carcass or part of a carcass, or meat
16 or a meat food product, prepared at any official es-
17 tablishment preparing the article for distribution in
18 commerce, that is found not to be in compliance
19 with the regulations issued under paragraph (2), (3),
20 or (4) of subsection (a) shall be—

21 “(A) considered adulterated and deter-
22 mined to be condemned; and

23 “(B) if no appeal is made to the deter-
24 mination of condemnation, destroyed for human

1 food purposes under the supervision of a duly
2 authorized representative of the Secretary.

3 “(2) REPROCESSING OR LABELING.—A carcass
4 or part of a carcass, or meat or a meat food product
5 that is not in compliance with paragraph (2), (3), or
6 (4) of subsection (a), but that may by reprocessing
7 or labeling, or both, be made not adulterated, need
8 not be condemned and destroyed if after reprocess-
9 ing or labeling, or both, as applicable and as deter-
10 mined by the Secretary, under the supervision of a
11 duly authorized representative of the Secretary, the
12 carcass, part of a carcass, meat, or meat food prod-
13 uct is subsequently inspected and found to be not
14 adulterated.

15 “(3) APPEALS.—

16 “(A) ACTION PENDING APPEAL.—If an ap-
17 peal is made to a determination of condemna-
18 tion, the carcass, part of a carcass, meat, or
19 meat food product shall be appropriately
20 marked, segregated, and held by the official es-
21 tablishment pending completion of an appeal in-
22 spection.

23 “(B) CONDEMNATION SUSTAINED.—If the
24 determination of condemnation is sustained, the
25 carcass, part of a carcass, meat, or meat food

1 product if not so reprocessed or labeled, or
2 both, under paragraph (2) so as to be made not
3 adulterated, shall be destroyed for human food
4 purposes under the supervision of a duly au-
5 thorized representative of the Secretary.

6 “(c) HUMAN PATHOGENS AND OTHER HARMFUL
7 SUBSTANCES.—Not later than 1 year after the date of en-
8 actment of this title, the Secretary shall issue regulations
9 that—

10 “(1) require meat and meat food products in an
11 official establishment to be tested, in such manner
12 and with such frequency as the Secretary considers
13 necessary, to identify human pathogens, or markers
14 for the pathogens, and other potentially harmful
15 substances in the meat and meat food products;

16 “(2) require that the results of any test con-
17 ducted in accordance with paragraph (1) be reported
18 to the Secretary, in such manner and with such fre-
19 quency as the Secretary considers necessary;

20 “(3)(A) establish interim limits for human
21 pathogens and other potentially harmful substances
22 that, when found on meat or meat food products,
23 may present a threat to public health; and

24 “(B) in carrying out subparagraph (A)—

1 “(i) establish interim limits that are below
2 the industry mean as determined by the Sec-
3 retary for the pathogen or other potentially
4 harmful substance established through national
5 baseline studies; and

6 “(ii) reestablish the interim limits every
7 after the initial interim limits until the regu-
8 latory limits referred to in subsection (d)(2),
9 tolerances, or other standards are established
10 under this Act or other applicable law; and

11 “(4) prohibit or restrict the sale, transpor-
12 tation, offer for sale or transportation, or receipt for
13 transportation of any meat or meat food products
14 that—

15 “(A) are capable of use as human food;
16 and

17 “(B) exceed the regulatory limits, interim
18 limits, tolerances, or other standards estab-
19 lished under this Act or other applicable law for
20 human pathogens or other potentially harmful
21 substances.

22 “(d) RESEARCH AND REGULATORY LIMITS.—

23 “(1) RESEARCH ON FOOD SAFETY.—The Sec-
24 retary, acting through the Under Secretary of Agri-

1 culture for Food Safety, shall conduct or support ap-
2 propriate research on food safety, including—

3 “(A) developing and reevaluating appro-
4 priate limits for human pathogens or other po-
5 tentially harmful substances that when found
6 on meat and meat food products prepared in of-
7 ficial establishments may present a threat to
8 public health;

9 “(B) developing efficient, rapid, and sen-
10 sitive methods for determining and detecting
11 the presence of microbial contamination, chemi-
12 cal residues, and animal diseases that have an
13 adverse impact on human health;

14 “(C) conducting baseline studies on the
15 prevalence of human pathogens or other poten-
16 tially harmful substances in processing facili-
17 ties; and

18 “(D) conducting risk assessments to deter-
19 mine the human pathogens and other poten-
20 tially harmful substances that pose the greatest
21 risk to human health.

22 “(2) REGULATORY LIMITS FOR HUMAN PATHO-
23 GENS AND OTHER HARMFUL SUBSTANCES.—

24 “(A) IN GENERAL.—Not later than 1 year
25 after the date of enactment of this title, the

1 Secretary of Health and Human Services shall
2 establish regulatory limits, to the maximum ex-
3 tent scientifically supportable, for human patho-
4 gens and other potentially harmful substances,
5 including heavy metals, that, when found as a
6 component of meat or meat food products pre-
7 pared in official establishments, may present a
8 threat to public health.

9 “(B) RISK TO HUMAN HEALTH.—In estab-
10 lishing the regulatory limits, the Secretary of
11 Health and Human Services shall consider the
12 risk to human health, including the risk to chil-
13 dren, the elderly, individuals whose immune
14 systems are compromised, and other population
15 subgroups, posed by consumption of the meat
16 or meat food products containing the human
17 pathogen or other potentially harmful sub-
18 stance.

19 “(C) FUNDING.—The Secretary of Agri-
20 culture shall annually transfer to the Secretary
21 of Health and Human Services an amount, to
22 be determined by the Secretaries, to defray the
23 cost of establishing the regulatory limits.

24 “(e) SURVEILLANCE AND SAMPLING SYSTEMS.—

1 “(1) SURVEILLANCE SYSTEM.—In conjunction
2 with the Director of the Centers for Disease Control
3 and Prevention and the Commissioner of Food and
4 Drugs, the Secretary shall develop and administer
5 an active surveillance system for foodborne illness,
6 that is based on a representative sample of the pop-
7 ulation of the United States, to assess more accu-
8 rately the frequency and sources of human disease
9 in the United States associated with the consump-
10 tion of food products.

11 “(2) SAMPLING SYSTEM.—

12 “(A) IN GENERAL.—Not later than 2 years
13 after the date of enactment of this title, the
14 Secretary shall establish a sampling system,
15 using data collected under subsection (c)(2) and
16 other sources, to analyze the nature, frequency
17 of occurrence, and quantities of human patho-
18 gens and other potentially harmful substances
19 in meat and meat food products.

20 “(B) INFORMATION.—The sampling sys-
21 tem shall provide—

22 “(i) statistically valid monitoring, in-
23 cluding market basket studies, on the na-
24 ture, frequency of occurrence, and quantity
25 of human pathogens and other potentially

1 harmful substances in meat and meat food
2 products available to consumers; and

3 “(ii) such other information as the
4 Secretary determines may be useful in as-
5 sessing the occurrence of human pathogens
6 and other potentially harmful substances
7 in meat and meat food products.

8 “(C) NONCOMPLIANCE.—If a sample is
9 found to exceed regulatory limits, interim lim-
10 its, tolerances, or standards established under
11 this Act or other applicable law, the Secretary
12 shall take action to prevent violative products
13 from entering commerce or to remove the viola-
14 tive products from the market.

15 “(f) REVIEW AND CONSULTATION.—

16 “(1) REVIEW.—The Secretary shall review, at
17 least 2 years, all regulations, processes, procedures,
18 and methods designed to limit and control human
19 pathogens and other potentially harmful substances
20 present on or in carcasses and parts of carcasses
21 and in meat and meat food products. The ongoing
22 review shall include, as necessary, epidemiologic and
23 other scientific studies to ascertain the efficiency
24 and efficacy of the regulations, processes, proce-
25 dures, and methods.

1 “(2) CONSULTATION.—In carrying out para-
2 graphs (1) and (3) of subsection (c), subsection (d),
3 subsection (e)(1), and paragraph (1), the Secretary
4 shall consult with the Assistant Secretary for
5 Health, the Director of the Centers for Disease Con-
6 trol and Prevention, the Commissioner of Food and
7 Drugs, and the heads of such other Federal and
8 State public health agencies as the Secretary consid-
9 ers appropriate.

10 **“SEC. 502. HAZARD CONTROLS.**

11 “(a) REGULATIONS.—

12 “(1) ISSUANCE.—Not later than 1 year after
13 the date of enactment of this title, the Secretary
14 shall issue regulations that require an official estab-
15 lishment to—

16 “(A) adopt processing controls that are
17 adequate to protect public health; and

18 “(B) limit the presence and growth of
19 human pathogens and other potentially harmful
20 substances in carcasses and parts of carcasses
21 and on meat and meat food products derived
22 from animals prepared in the establishment.

23 “(2) CONTENT.—The regulations shall—

24 “(A) set standards for sanitation;

1 “(B) set interim limits for biological,
2 chemical, and physical hazards, as appropriate;

3 “(C) require processing controls to ensure
4 that relevant regulatory standards are met;

5 “(D) require recordkeeping to monitor
6 compliance;

7 “(E) require sampling to ensure that proc-
8 essing controls are effective and that regulatory
9 standards are being met; and

10 “(F) provide for agency access to records
11 kept by official establishments and submission
12 of copies of the records to the Secretary as the
13 Secretary considers appropriate.

14 “(3) PUBLIC ACCESS.—Public access to records
15 that relate to the adequacy of measures taken by an
16 official establishment to protect the public health,
17 and to limit the presence and growth of human
18 pathogens and other potentially harmful substances,
19 shall be subject to section 552 of title 5, United
20 States Code.

21 “(4) PROCESSING CONTROLS.—The Secretary
22 may, as the Secretary considers necessary, require
23 any person with responsibility for, or control over,
24 any animals or meat or meat food products intended
25 for human consumption to adopt processing controls,

1 if the processing controls are needed to ensure the
2 protection of public health.

3 “(b) ADVISORY BOARD.—

4 “(1) IN GENERAL.—On the issuance of regula-
5 tions under subsection (a), the Secretary shall con-
6 vene an advisory board on meat and poultry safety
7 to—

8 “(A) recommend improvements to the
9 meat and poultry inspection programs;

10 “(B) evaluate alternatives to the programs;
11 and

12 “(C) provide other relevant advice to the
13 Secretary.

14 “(2) COMPOSITION.—The advisory board shall
15 include representatives of consumers, processors,
16 producers, retail outlets, inspectors, plant workers,
17 public health officials, and victims of foodborne ill-
18 ness.

19 “(3) DUTIES.—The advisory board shall—

20 “(A) evaluate—

21 “(i) the meat and poultry inspection
22 programs; and

23 “(ii) the significance of the programs
24 in ensuring the proper operation of manda-
25 tory processing controls; and

1 “(B) make recommendations to the Sec-
2 retary described in paragraph (4).

3 “(4) REPORT.—The Secretary shall report to
4 Congress on the recommendations of the advisory
5 board for improving the meat and poultry inspection
6 programs, including—

7 “(A) the timing and criteria for any
8 changes in the programs;

9 “(B) alternative approaches for addressing
10 safety and quality issues; and

11 “(C) the minimum time needed to ensure
12 that processing controls effectively reduce
13 foodborne illness prior to any change in the
14 programs.

15 “(5) PROCEDURE.—The advisory board shall be
16 subject to the Federal Advisory Committee Act (5
17 U.S.C. App.).

18 “(c) LABELING.—Notwithstanding any other provi-
19 sion of this Act, if the Secretary discontinues carcass-by-
20 carcass inspection of meat, the ‘USDA Inspected and
21 Passed’ seal, or a similar seal, shall not be affixed to any
22 carcasses and parts of carcasses and to meat and meat
23 food products derived from the animals prepared in any
24 official establishment.

1 **“SEC. 503. VOLUNTARY GUIDELINES FOR RETAIL ESTAB-**
2 **LISHMENTS.**

3 “(a) STANDARDS.—

4 “(1) IN GENERAL.—In consultation with rep-
5 resentatives of States, the Conference for Food Pro-
6 tection, the Association of Food and Drug Officials,
7 and Federal agencies, the Secretary shall establish
8 minimum standards for the handling, processing,
9 and storage of meat and meat food products at re-
10 tail stores, restaurants, and similar types of retail
11 establishments (collectively referred to in this section
12 as ‘retail establishments’).

13 “(2) CONTENT.—The standards shall—

14 “(A) be designed to ensure that meat and
15 meat food products sold by retail establish-
16 ments are safe for human consumption;

17 “(B) be based on the principles of preven-
18 tive controls; and

19 “(C) include—

20 “(i) safe food product processing and
21 handling practices for retail establish-
22 ments, including time and temperature
23 controls on meat and meat food products
24 sold by the establishments;

25 “(ii) equipment handling practices, in-
26 cluding standards for the cleaning and

1 sanitization of food equipment and uten-
2 sils;

3 “(iii) minimum personnel hygiene re-
4 quirements; and

5 “(iv) requirements for the use of tem-
6 perature warning devices on raw meat and
7 meat food products to alert consumers to
8 inadequate temperature controls.

9 “(b) GUIDELINES.—

10 “(1) ISSUANCE.—Not later than 18 months
11 after the date of enactment of this title, the Sec-
12 retary, after notice and opportunity for comment,
13 shall issue guidelines for retail establishments that
14 offer meat and meat food products that include the
15 standards established under subsection (a).

16 “(2) COMPLIANCE.—Not later than 18 months
17 after the date of enactment of this title, the Sec-
18 retary shall issue a final regulation defining the cir-
19 cumstances that constitute substantial compliance by
20 retail establishments with the guidelines issued
21 under paragraph (1). The regulation shall provide
22 that there is not substantial compliance if a signifi-
23 cant number of retail establishments have failed to
24 comply with the guidelines.

25 “(3) REPORT.—

1 “(A) IN GENERAL.—Not later than 3 years
2 after the date of enactment of this title, the
3 Secretary shall issue a report to Congress on
4 actions taken by retail establishments to comply
5 with the guidelines. The report shall include a
6 determination of whether there is substantial
7 compliance with the guidelines.

8 “(B) SUBSTANTIAL COMPLIANCE.—If the
9 Secretary determines that there is substantial
10 compliance with the guidelines, the Secretary
11 shall issue a report and make a determination
12 in accordance with subparagraph (A) not less
13 than every 2 years.

14 “(C) NO SUBSTANTIAL COMPLIANCE.—If
15 the Secretary determines that there is not sub-
16 stantial compliance with the guidelines, the Sec-
17 retary shall (at the time the determination is
18 made) issue proposed regulations requiring that
19 retail establishments comply with the guide-
20 lines. The Secretary shall issue final regulations
21 imposing the requirement not later than 180
22 days after issuance of any proposed regulations.
23 Any final regulations shall become effective 180
24 days after the date of the issuance of the final
25 regulations.

1 “(c) ENFORCEMENT.—A State may bring, in the
2 name of the State and within the jurisdiction of the State,
3 a proceeding for the civil enforcement, or to restrain a vio-
4 lation, of final regulations issued pursuant to subsection
5 (b)(3)(C) if the food that is the subject of the proceeding
6 is located in the State.

7 **“SEC. 504. LIVESTOCK TRACEBACK.**

8 “(a) IN GENERAL.—

9 “(1) IDENTIFICATION.—For the purpose of un-
10 derstanding the nature of foodborne illness and
11 minimizing the risks of foodborne illness from car-
12 casses and parts of carcasses and meat and meat
13 food products distributed in commerce, the Secretary
14 shall, as the Secretary considers necessary, prescribe
15 by regulation that cattle, sheep, swine, and goats,
16 and horses, mules, and other equines presented for
17 slaughter for human food purposes be identified in
18 a manner prescribed by the Secretary to enable the
19 Secretary to trace each animal to any premises at
20 which the animal has been held for such period prior
21 to slaughter as the Secretary considers necessary to
22 carry out this Act.

23 “(2) PROHIBITION OR RESTRICTION ON
24 ENTRY.—The Secretary may prohibit or restrict
25 entry into any slaughtering establishment inspected

1 under this Act of any cattle, sheep, swine, or goats,
2 or horses, mules, or other equines not identified as
3 prescribed by the Secretary.

4 “(b) RECORDS.—

5 “(1) IN GENERAL.—The Secretary may require
6 that a person required to identify livestock pursuant
7 to subsection (a) maintain accurate records, as pre-
8 scribed by the Secretary, regarding the purchase,
9 sale, and identification of the livestock.

10 “(2) ACCESS.—A person subject to paragraph
11 (1) shall, at all reasonable times, on notice by a duly
12 authorized representative of the Secretary, afford
13 the representative access to the place of business of
14 the person and an opportunity to examine the
15 records of the person and copy the records.

16 “(3) DURATION.—Any record required to be
17 maintained under this subsection shall be main-
18 tained for such period of time as the Secretary pre-
19 scribes.

20 “(c) FALSE INFORMATION.—No person shall falsify
21 or misrepresent to the Secretary or any other person any
22 information concerning the premises at which any cattle,
23 sheep, swine, or goats, or horses, mules, or other equines,
24 or carcasses thereof, were held.

1 “(d) MAINTENANCE OF RECORDS.—No person shall,
2 without authorization from the Secretary, alter, detach, or
3 destroy any records or other means of identification pre-
4 scribed by the Secretary for use in determining the prem-
5 ises at which were held any cattle, sheep, swine, or goats,
6 or horses, mules, or other equines, or the carcasses there-
7 of.

8 “(e) HUMAN PATHOGENS OR OTHER HARMFUL SUB-
9 STANCES.—

10 “(1) IDENTIFICATION OF SOURCE.—If the Sec-
11 retary finds any human pathogen or any other po-
12 tentially harmful substance in any cattle, sheep,
13 swine, or goats, or horses, mules, or other equines
14 at the time they are presented for slaughter or in
15 any carcasses, parts of carcasses, meat, or meat food
16 products prepared in an official establishment and
17 the Secretary finds that there is a reasonable prob-
18 ability that human consumption of any meat or meat
19 food product containing the human pathogen or
20 other potentially harmful substance presents a
21 threat to public health, the Secretary may take such
22 action as the Secretary considers necessary to deter-
23 mine the source of the human pathogen or other po-
24 tentially harmful substance.

1 “(2) ACTION.—If the Secretary identifies the
2 source of any human pathogen or other potentially
3 harmful substance referred to in paragraph (1), the
4 Secretary may prohibit or restrict the movement of
5 any animals, carcasses, parts of carcasses, meat,
6 meat food products, or any other article from any
7 source of the human pathogen or other potentially
8 harmful substance until the Secretary determines
9 that the human pathogen or other potentially harm-
10 ful substance at the source no longer presents a
11 threat to public health.

12 “(f) PRODUCERS AND HANDLERS.—

13 “(1) USE OF METHODS.—The Secretary shall
14 use any means of identification and recordkeeping
15 methods utilized by producers or handlers of cattle,
16 sheep, swine, or goats, or horses, mules, or other
17 equines whenever the Secretary determines that the
18 means of identification and recordkeeping methods
19 will enable the Secretary to carry out this section.

20 “(2) COOPERATION.—The Secretary may co-
21 operate with producers or handlers of cattle, sheep,
22 swine, or goats, or horses, mules, or other equines,
23 in which any human pathogen or other potentially
24 harmful substance described in subsection (e)(1) is
25 found, to develop and carry out methods to limit or

1 eliminate the human pathogen or other potentially
2 harmful substance at the source.

3 **“SEC. 505. NOTIFICATION AND RECALL OF NONCONFORM-**
4 **ING ARTICLES.**

5 “(a) NOTIFICATION.—Any person preparing car-
6 casses or parts of carcasses, meat, or meat food products
7 for distribution in commerce who obtains knowledge that
8 provides a reasonable basis for believing that any car-
9 casses or parts of carcasses or any meat or meat food
10 products—

11 “(1) are unsafe for human consumption, adul-
12 terated, or not produced in accordance with section
13 501(a); or

14 “(2) are misbranded;
15 shall immediately notify the Secretary, in such manner
16 and by such means as the Secretary may by regulation
17 prescribe, of the identity and location of the articles.

18 “(b) RECALL.—

19 “(1) IN GENERAL.—If the Secretary finds, on
20 notification or otherwise, that any carcasses or parts
21 of carcasses or any meat or meat food products—

22 “(A) are unsafe for human consumption,
23 adulterated, or not produced in accordance with
24 section 501(a); or

25 “(B) are misbranded;

1 the Secretary shall by order require any person en-
2 gaged in the processing, handling, transportation,
3 storage, importation, distribution, or sale of the arti-
4 cles to immediately cease any distribution of the ar-
5 ticles, and to recall the articles from commercial dis-
6 tribution and use, if the Secretary determines that
7 there is a reasonable probability that the product is
8 unsafe for human consumption, adulterated, or mis-
9 branded, unless the person is engaged in a voluntary
10 recall of the articles that the Secretary considers
11 adequate.

12 “(2) ORDER.—The order shall—

13 “(A) include a timetable during which the
14 recall shall occur;

15 “(B) require periodic reports by the person
16 to the Secretary describing the progress of the
17 recall; and

18 “(C) require notice to consumers to whom
19 the articles were, or may have been, distributed
20 as to how the consumers should treat the arti-
21 cle.

22 “(c) INFORMAL HEARING.—

23 “(1) IN GENERAL.—The order shall provide any
24 person subject to the order with an opportunity for
25 an informal hearing, to be held not later than 5 days

1 after the date of issuance of the order, on the ac-
2 tions required by the order.

3 “(2) VACATION OF ORDER.—If, after providing
4 an opportunity for the hearing, the Secretary deter-
5 mines that inadequate grounds exist to support the
6 actions required by the order, the Secretary shall va-
7 cate the order.

8 “(d) JUDICIAL RECALL.—A district court of the
9 United States may order any person engaged in the proc-
10 essing, handling, transportation, storage, importation, dis-
11 tribution, or sale of any carcass, part of a carcass, meat,
12 or meat food product to recall the carcass, part of a car-
13 cass, meat, or meat food product if the court finds that
14 there is a reasonable probability that the carcass, part of
15 a carcass, meat, or meat food product is unsafe for human
16 consumption, adulterated, or misbranded.

17 **“SEC. 506. REFUSAL OR WITHDRAWAL OF INSPECTION.**

18 “(a) IN GENERAL.—The Secretary may, for such pe-
19 riod or indefinitely as the Secretary considers necessary
20 to carry out this Act, refuse to provide, or withdraw, in-
21 spections under title I with respect to any official estab-
22 lishment if the Secretary determines, after opportunity for
23 a hearing is accorded to the applicant for, or recipient of,
24 the service that the applicant or recipient, or any person

1 connected with the applicant or recipient, has repeatedly
2 failed to comply with this Act.

3 “(b) INSPECTIONS PENDING REVIEW.—The Sec-
4 retary may direct that, pending opportunity for an expe-
5 dited hearing in the case of any refusal or withdrawal of
6 inspections and the final determination and order under
7 subsection (a) and any judicial review of the determination
8 and order, inspections shall be denied or suspended if the
9 Secretary considers the action necessary in the public in-
10 terest in order to protect the health or welfare of consum-
11 ers or to ensure the safe and effective performance of offi-
12 cial duties under this Act.

13 “(c) JUDICIAL REVIEW.—

14 “(1) IN GENERAL.—The determination and
15 order of the Secretary with respect to refusal or
16 withdrawal of inspections under this section shall be
17 final and conclusive unless the applicant for, or re-
18 cipient of, inspections files an application for judicial
19 review not later than 30 days after the effective date
20 of the order.

21 “(2) INSPECTIONS PENDING REVIEW.—Inspec-
22 tions shall be refused or withdrawn as of the effec-
23 tive date of the order pending any judicial review of
24 the order unless the Secretary or the Court of Ap-
25 peals directs otherwise.

1 “(3) VENUE; RECORD.—Judicial review of the
2 order shall be—

3 “(A) in the United States Court of Appeals
4 for the circuit in which the applicant for, or the
5 recipient of, inspections has the principal place
6 of business of the applicant or recipient or in
7 the United States Court of Appeals for the Dis-
8 trict of Columbia Circuit; and

9 “(B) based on the record on which the de-
10 termination and order are based.

11 “(4) PROCESS.—Section 204 of the Packers
12 and Stockyards Act, 1921 (7 U.S.C. 194), shall be
13 applicable to appeals taken under this section.

14 “(d) ADDITIONAL AUTHORITY.—This section shall be
15 in addition to, and not derogate from, any provision of
16 this Act for refusal, withdrawal, or suspension of inspec-
17 tions under title I.

18 **“SEC. 507. CIVIL PENALTIES.**

19 “(a) IN GENERAL.—

20 “(1) ASSESSMENT.—A person who violates this
21 title, a regulation issued under this title, or an order
22 issued under subsection (b) or (d) of section 505
23 may be assessed a civil penalty by the Secretary of
24 not more than \$100,000 for each day of violation.

1 “(2) SEPARATE VIOLATION.—Each offense de-
2 scribed in paragraph (1) shall be considered to be a
3 separate violation.

4 “(3) NOTICE AND OPPORTUNITY FOR HEAR-
5 ING.—No penalty may be assessed against a person
6 under this section unless the person is given notice
7 and an opportunity for a hearing on the record be-
8 fore the Secretary in accordance with sections 554
9 and 556 of title 5, United States Code.

10 “(4) AMOUNT.—The amount of the civil penalty
11 shall be assessed by the Secretary by written order,
12 taking into account the gravity of the violation, the
13 degree of culpability, and any history of prior of-
14 fenses. The amount may be reviewed only as pro-
15 vided in subsection (b).

16 “(b) REVIEW.—

17 “(1) IN GENERAL.—A person against whom a
18 violation is found and a civil penalty assessed by
19 order of the Secretary under subsection (a) may ob-
20 tain review of the order in the United States Court
21 of Appeals for the circuit in which the party resides
22 or has a place of business or in the United States
23 Court of Appeals for the District of Columbia Cir-
24 cuit by filing a notice of appeal in the court not later
25 than 30 days after the date of the order and by si-

1 multaneously sending a copy of the notice by cer-
2 tified mail to the Secretary.

3 “(2) RECORD.—The Secretary shall promptly
4 file in the court a certified copy of the record on
5 which the violation was found and the penalty as-
6 sessed.

7 “(3) FINDINGS.—The findings of the Secretary
8 shall be set aside only if found to be unsupported by
9 substantial evidence on the record as a whole.

10 “(c) CIVIL ACTION TO RECOVER ASSESSMENT.—

11 “(1) IN GENERAL.—If a person fails to pay an
12 assessment of a civil penalty after the penalty has
13 become a final and unappealable order, or after the
14 appropriate Court of Appeals has entered final judg-
15 ment in favor of the Secretary, the Secretary shall
16 refer the matter to the Attorney General, who shall
17 institute a civil action to recover the amount as-
18 sessed in any appropriate district court of the Unit-
19 ed States.

20 “(2) SCOPE OF REVIEW.—In a recovery action
21 under paragraph (1), the validity and appropriate-
22 ness of the order of the Secretary imposing the civil
23 penalty shall not be subject to review.

1 “(d) DISPOSITION OF AMOUNTS.—All amounts col-
 2 lected under this section shall be paid into the Treasury
 3 of the United States.

4 “(e) EQUITABLE RELIEF.—

5 “(1) RELATIONSHIP TO OTHER ACTIONS.—
 6 Nothing in this Act requires the Secretary to report
 7 for criminal prosecution, or for the institution of an
 8 injunction or other proceeding, a violation of this
 9 Act, if the Secretary believes that the public interest
 10 will be adequately served by assessment of civil pen-
 11 alties.

12 “(2) MODIFICATION OF PENALTY.—The Sec-
 13 retary may compromise, modify, or remit, with or
 14 without conditions, any civil penalty assessed under
 15 this section.

16 **“SEC. 508. WHISTLEBLOWER PROTECTION.**

17 “(a) IN GENERAL.—No person subject to this Act
 18 may harass, prosecute, hold liable, or discriminate against
 19 any employee or other person because the person—

20 “(1) is assisting or demonstrating an intent to
 21 assist in achieving compliance with any Federal or
 22 State law (including a rule or regulation);

23 “(2) is refusing to violate or assist in the viola-
 24 tion of any Federal or State law (including a rule or
 25 regulation); or

1 “(3) has commenced, caused to be commenced,
 2 or is about to commence a proceeding, has testified
 3 or is about to testify at a proceeding, or has assisted
 4 or participated or is about to assist or participate in
 5 any manner in such a proceeding or in any other ac-
 6 tion to carry out the functions or responsibilities of
 7 any agency, office, or unit of the Department of Ag-
 8 riculture.

9 “(b) PROCEDURES AND PENALTIES.—The proce-
 10 dures and penalties applicable to prohibited acts under
 11 subsection (a) shall be governed by the applicable provi-
 12 sions of section 31105 of title 49, United States Code.

13 “(c) BURDENS OF PROOF.—The legal burdens of
 14 proof with respect to prohibited acts under subsection (a)
 15 shall be governed by the applicable provisions of sections
 16 1214 and 1221 of title 5, United States Code.”.

17 **TITLE II—POULTRY INSPECTION**

18 **SEC. 201. REFERENCES TO THE POULTRY PRODUCTS IN-** 19 **SPECTION ACT.**

20 Whenever in this title an amendment or repeal is ex-
 21 pressed in terms of an amendment to, or repeal of, a sec-
 22 tion or other provision, the reference shall be considered
 23 to be made to a section or other provision of the Poultry
 24 Products Inspection Act (21 U.S.C. 451 et seq.), except
 25 to the extent otherwise specifically provided.

1 **SEC. 202. DEFINITIONS.**

2 (a) ADULTERATED.—Section 4(g)(1) (21 U.S.C.
3 453(g)(1)) is amended to read as follows:

4 “(1) if it bears or contains a poisonous or dele-
5 terious substance that may render it injurious to
6 health, except that, in the case of a substance that
7 is not an added substance, the article shall be con-
8 sidered adulterated under this subsection if there is
9 a reasonable probability that the quantity of the sub-
10 stance in the article will cause adverse health con-
11 sequences;”.

12 (b) ADDED SUBSTANCE.—Section 4 is amended by
13 adding at the end the following:

14 “(cc) The term ‘added substance’—

15 “(1) means a substance that is not an inherent
16 constituent of a food and whose intended use results,
17 or may reasonably be expected to result, directly or
18 indirectly, in the substance becoming a component
19 of, or otherwise affecting the characteristics of, the
20 food; and

21 “(2) includes—

22 “(A) a substance that is intentionally
23 added to any food; or

24 “(B) a substance that is the result of mi-
25 crobial, viral, environmental, agricultural, in-
26 dustrial, or other contamination.”.

1 **SEC. 203. FEDERAL AND STATE COOPERATION.**

2 The first sentence of section 5(c)(1) (21 U.S.C.
3 454(c)(1)) is amended—

4 (1) by inserting after “the Wholesome Poultry
5 Products Act,” the following: “or by 30 days prior
6 to the expiration of the 2-year period beginning on
7 the date of enactment of the Family Food Protection
8 Act of 1995,”; and

9 (2) by striking “sections 1–4, 6–10, and 12–22
10 of this Act” and inserting “sections 1 through 4, 6
11 through 10, 12 through 22, and 30 through 37”.

12 **SEC. 204. EXEMPTIONS.**

13 Section 15(a)(1) (21 U.S.C. 464(a)(1)) is amended
14 by inserting before the semicolon at the end the following:
15 “, except that regulations issued under section 32 shall
16 apply to a retail store or other type of retail establish-
17 ment”.

18 **SEC. 205. REDUCING ADULTERATION OF POULTRY AND**
19 **POULTRY PRODUCTS.**

20 The Act (21 U.S.C. 451 et seq.) is amended by add-
21 ing at the end the following:

22 **“SEC. 30. REDUCING ADULTERATION OF POULTRY AND**
23 **POULTRY PRODUCTS.**

24 “(a) IN GENERAL.—On the basis of the best available
25 scientific and technological data, the Secretary shall issue
26 regulations to—

1 “(1) limit the presence of human pathogens and
2 other potentially harmful substances in poultry at
3 the time the poultry are presented for slaughter;

4 “(2) ensure that appropriate measures are
5 taken to control and reduce the presence and growth
6 of human pathogens and other potentially harmful
7 substances on poultry or poultry products prepared
8 in any official establishment;

9 “(3) ensure that all ready-to-eat poultry or
10 poultry products prepared in any official establish-
11 ment preparing the poultry or poultry products for
12 distribution in commerce are processed in such a
13 manner as to destroy any human pathogens and
14 other potentially harmful substances that are likely
15 to cause foodborne illness; and

16 “(4) ensure that poultry and poultry products,
17 other than the poultry and products referred to in
18 paragraph (3), prepared at any official establish-
19 ment preparing the poultry or poultry products for
20 distribution in commerce are labeled with instruc-
21 tions for handling and preparation for consumption
22 that, when adhered to, will destroy any human
23 pathogens or other potentially harmful substances
24 that are likely to cause foodborne illness.

25 “(b) NONCOMPLIANCE.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), poultry or a poultry product prepared at
3 any official establishment preparing the poultry or
4 poultry product for distribution in commerce, that is
5 found not to be in compliance with the regulations
6 issued under paragraph (2), (3), or (4) of subsection
7 (a) shall be—

8 “(A) considered adulterated and deter-
9 mined to be condemned; and

10 “(B) if no appeal is made to the deter-
11 mination of condemnation, destroyed for human
12 food purposes under the supervision of an in-
13 spectator.

14 “(2) REPROCESSING OR LABELING.—Poultry or
15 a poultry product that is not in compliance with
16 paragraph (2), (3), or (4) of subsection (a), but that
17 may by reprocessing or labeling, or both, be made
18 not adulterated, need not be condemned and de-
19 stroyed if after reprocessing or labeling, or both, as
20 applicable and as determined by the Secretary,
21 under the supervision of an inspector, the poultry or
22 poultry product is subsequently inspected and found
23 to be not adulterated.

24 “(3) APPEALS.—

1 “(A) ACTION PENDING APPEAL.—If an ap-
2 peal is made to a determination of condemna-
3 tion, the poultry or poultry product shall be ap-
4 propriately marked, segregated, and held by the
5 official establishment pending completion of an
6 appeal inspection.

7 “(B) CONDEMNATION SUSTAINED.—If the
8 determination of condemnation is sustained, the
9 poultry or poultry product if not reprocessed or
10 labeled, or both, under paragraph (2) so as to
11 be made not adulterated, shall be destroyed for
12 human food purposes under the supervision of
13 a duly authorized representative of the Sec-
14 retary.

15 “(C) HUMAN PATHOGENS AND OTHER HARMFUL
16 SUBSTANCES.—Not later than 1 year after the date of en-
17 actment of this section, the Secretary shall issue regula-
18 tions that—

19 “(1) require poultry and poultry products in an
20 official establishment to be tested, in such manner
21 and with such frequency as the Secretary considers
22 necessary, to identify human pathogens, or markers
23 for the pathogens, and other potentially harmful
24 substances in the poultry and poultry products;

1 “(2) require that the results of any test con-
2 ducted in accordance with paragraph (1) be reported
3 to the Secretary, in such manner and with such fre-
4 quency as the Secretary considers necessary;

5 “(3)(A) establish interim limits for human
6 pathogens and other potentially harmful substances
7 that, when found on poultry or poultry products,
8 may present a threat to public health; and

9 “(B) in carrying out subparagraph (A)—

10 “(i) establish interim limits that are below
11 the industry mean as determined by the Sec-
12 retary for the pathogen or other potentially
13 harmful substance established through national
14 baseline studies; and

15 “(ii) reestablish the interim limits every
16 two years after the initial interim limits until
17 the regulatory limits referred to in subsection
18 (d)(2), tolerances, or other standards are estab-
19 lished under this Act or other applicable law;
20 and

21 “(4) prohibit or restrict the sale, transpor-
22 tation, offer for sale or transportation, or receipt for
23 transportation of any poultry or poultry products
24 that—

1 “(A) are capable of use as human food;
2 and

3 “(B) exceed the regulatory limits, interim
4 limits, tolerances, or other standards estab-
5 lished under this Act or other applicable law for
6 human pathogens or other potentially harmful
7 substances.

8 “(d) RESEARCH AND REGULATORY LIMITS.—

9 “(1) RESEARCH ON FOOD SAFETY.—The Sec-
10 retary, acting through the Under Secretary of Agri-
11 culture for Food Safety, shall conduct or support ap-
12 propriate research on food safety, including—

13 “(A) developing and reevaluating appro-
14 priate limits for human pathogens or other po-
15 tentially harmful substances that when found
16 on poultry and poultry products prepared in of-
17 ficial establishments may present a threat to
18 public health;

19 “(B) developing efficient, rapid, and sen-
20 sitive methods for determining and detecting
21 the presence of microbial contamination, chemi-
22 cal residues, and animal diseases that have an
23 adverse impact on human health;

24 “(C) conducting baseline studies on the
25 prevalence of human pathogens or other poten-

1 tially harmful substances in processing facili-
2 ties; and

3 “(D) conducting risk assessments to deter-
4 mine the human pathogens and other poten-
5 tially harmful substances that pose the greatest
6 risk to human health.

7 “(2) REGULATORY LIMITS FOR HUMAN PATHO-
8 GENS AND OTHER HARMFUL SUBSTANCES.—

9 “(A) IN GENERAL.—Not later than 1 year
10 after the date of enactment of this section, the
11 Secretary of Health and Human Services shall
12 establish regulatory limits, to the maximum ex-
13 tent scientifically supportable, for human patho-
14 gens and other potentially harmful substances,
15 including heavy metals, that, when found as a
16 component of poultry or poultry products pre-
17 pared in official establishments, may present a
18 threat to public health.

19 “(B) RISK TO HUMAN HEALTH.—In estab-
20 lishing the regulatory limits, the Secretary of
21 Health and Human Services shall consider the
22 risk to human health, including the risk to chil-
23 dren, the elderly, individuals whose immune
24 systems are compromised, and other population
25 subgroups, posed by consumption of the poultry

1 or poultry products containing the human
2 pathogen or other potentially harmful sub-
3 stance.

4 “(C) FUNDING.—The Secretary of Agri-
5 culture shall annually transfer to the Secretary
6 of Health and Human Services an amount, to
7 be determined by the Secretaries, to defray the
8 cost of establishing the regulatory limits.

9 “(e) SURVEILLANCE AND SAMPLING SYSTEMS.—

10 “(1) SURVEILLANCE SYSTEM.—In conjunction
11 with the Director of the Centers for Disease Control
12 and Prevention and the Commissioner of Food and
13 Drugs, the Secretary shall develop and administer
14 an active surveillance system for foodborne illness,
15 that is based on a representative sample of the pop-
16 ulation of the United States, to assess more accu-
17 rately the frequency and sources of human disease
18 in the United States associated with the consump-
19 tion of poultry and poultry products.

20 “(2) SAMPLING SYSTEM.—

21 “(A) IN GENERAL.—Not later than 2 years
22 after the date of enactment of this section, the
23 Secretary shall establish a sampling system,
24 using data collected under subsection (c)(2) and
25 other sources, to analyze the nature, frequency

1 of occurrence, and quantities of human patho-
2 gens and other potentially harmful substances
3 in poultry and poultry products.

4 “(B) INFORMATION.—The sampling sys-
5 tem shall provide—

6 “(i) statistically valid monitoring, in-
7 cluding market basket studies, on the na-
8 ture, frequency of occurrence, and quantity
9 of human pathogens and other potentially
10 harmful substances in poultry and poultry
11 products available to consumers; and

12 “(ii) such other information as the
13 Secretary determines may be useful in as-
14 sessing the occurrence of human pathogens
15 and other potentially harmful substances
16 in poultry and poultry products.

17 “(C) NONCOMPLIANCE.—If a sample is
18 found to exceed regulatory limits, interim lim-
19 its, tolerances, or standards established under
20 this Act or other applicable law, the Secretary
21 shall take action to prevent violative products
22 from entering commerce or to remove the viola-
23 tive products from the market.

24 “(f) REVIEW AND CONSULTATION.—

1 “(1) REVIEW.—The Secretary shall review, at
2 least every 2 years, all regulations, processes, proce-
3 dures, and methods designed to limit and control
4 human pathogens and other potentially harmful sub-
5 stances present on or in poultry and poultry prod-
6 ucts. The ongoing review shall include, as necessary,
7 epidemiologic and other scientific studies to ascer-
8 tain the efficiency and efficacy of the regulations,
9 processes, procedures, and methods.

10 “(2) CONSULTATION.—In carrying out para-
11 graphs (1) and (3) of subsection (c), subsection (d),
12 subsection (e)(1), and paragraph (1), the Secretary
13 shall consult with the Assistant Secretary for
14 Health, the Director of the Centers for Disease Con-
15 trol and Prevention, the Commissioner of Food and
16 Drugs, and the heads of such other Federal and
17 State public health agencies as the Secretary consid-
18 ers appropriate.

19 **“SEC. 31. HAZARD CONTROLS.**

20 “(a) REGULATIONS.—

21 “(1) ISSUANCE.—Not later than 1 year after
22 the date of enactment of this section, the Secretary
23 shall issue regulations that require an official estab-
24 lishment to—

1 “(A) adopt processing controls that are
2 adequate to protect public health; and

3 “(B) limit the presence and growth of
4 human pathogens and other potentially harmful
5 substances in poultry and poultry products pre-
6 pared in the establishment.

7 “(2) CONTENT.—The regulations shall—

8 “(A) set standards for sanitation;

9 “(B) set interim limits for biological,
10 chemical, and physical hazards, as appropriate;

11 “(C) require processing controls to ensure
12 that relevant regulatory standards are met;

13 “(D) require recordkeeping to monitor
14 compliance;

15 “(E) require sampling to ensure that proc-
16 essing controls are effective and that regulatory
17 standards are being met; and

18 “(F) provide for agency access to records
19 kept by official establishments and submission
20 of copies of the records to the Secretary as the
21 Secretary considers appropriate.

22 “(3) PUBLIC ACCESS.—Public access to records
23 that relate to the adequacy of measures taken by an
24 official establishment to protect the public health,
25 and to limit the presence and growth of human

1 pathogens and other potentially harmful substances,
 2 shall be subject to section 552 of title 5, United
 3 States Code.

4 “(4) PROCESSING CONTROLS.—The Secretary
 5 may, as the Secretary considers necessary, require
 6 any person with responsibility for, or control over,
 7 any poultry or poultry products intended for human
 8 consumption to adopt processing controls, if the
 9 processing controls are needed to ensure the protec-
 10 tion of public health.

11 “(b) ADVISORY BOARD.—On the issuance of regula-
 12 tions under subsection (a), the Secretary shall convene an
 13 advisory board on meat and poultry safety in accordance
 14 with section 502(b) of the Federal Meat Inspection Act.

15 “(c) LABELING.—Notwithstanding any other provi-
 16 sion of this Act, if the Secretary discontinues carcass-by-
 17 carcass inspection of poultry, the ‘USDA Inspected for
 18 Wholesomeness’ seal, or a similar seal, shall not be affixed
 19 to any poultry and poultry products derived from the poul-
 20 try prepared in any official establishment.

21 **“SEC. 32. VOLUNTARY GUIDELINES FOR RETAIL ESTAB-**
 22 **LISHMENTS.**

23 “(a) STANDARDS.—

24 “(1) IN GENERAL.—In consultation with rep-
 25 resentatives of States, the Conference for Food Pro-

tection, the Association of Food and Drug Officials,
and Federal agencies, the Secretary shall establish
minimum standards for the handling, processing,
and storage of poultry and poultry products at retail
stores, restaurants, and similar types of retail estab-
lishments (collectively referred to in this section as
'retail establishments').

“(2) CONTENT.—The standards shall—

“(A) be designed to ensure that poultry
and poultry products sold by the retail estab-
lishments are safe for human consumption;

“(B) be based on the principles of preven-
tive controls; and

“(C) include—

“(i) safe food product processing and
handling practices for retail establish-
ments, including time and temperature
controls on poultry and poultry products
sold by the establishments;

“(ii) equipment handling practices, in-
cluding standards for the cleaning and
sanitization of food equipment and uten-
sils;

“(iii) minimum personnel hygiene re-
quirements; and

1 “(iv) requirements for the use of tem-
2 perature warning devices on raw poultry or
3 poultry products to alert consumers to in-
4 adequate temperature controls.

5 “(b) GUIDELINES.—

6 “(1) ISSUANCE.—Not later than 18 months
7 after the date of enactment of this section, the Sec-
8 retary, after notice and opportunity for comment,
9 shall issue guidelines for retail establishments that
10 offer poultry and poultry products that include the
11 standards established under subsection (a).

12 “(2) COMPLIANCE.—Not later than 18 months
13 after the date of enactment of this section, the Sec-
14 retary shall issue a final regulation defining the cir-
15 cumstances that constitute substantial compliance by
16 retail establishments with the guidelines issued
17 under paragraph (1). The regulation shall provide
18 that there is not substantial compliance if a signifi-
19 cant number of retail establishments have failed to
20 comply with the guidelines.

21 “(3) REPORT.—

22 “(A) IN GENERAL.—Not later than 3 years
23 after the date of enactment of this section, the
24 Secretary shall issue a report to Congress on
25 actions taken by retail establishments to comply

1 with the guidelines. The report shall include a
2 determination of whether there is substantial
3 compliance with the guidelines.

4 “(B) SUBSTANTIAL COMPLIANCE.—If the
5 Secretary determines that there is substantial
6 compliance with the guidelines, the Secretary
7 shall issue a report and make a determination
8 in accordance with subparagraph (A) not less
9 than every 2 years.

10 “(C) NO SUBSTANTIAL COMPLIANCE.—If
11 the Secretary determines that there is not sub-
12 stantial compliance with the guidelines, the Sec-
13 retary shall (at the time the determination is
14 made) issue proposed regulations requiring that
15 retail establishments comply with the guide-
16 lines. The Secretary shall issue final regulations
17 imposing the requirement not later than 180
18 days after issuance of any proposed regulations.
19 Any final regulations shall become effective 180
20 days after the date of the issuance of the final
21 regulations.

22 “(c) ENFORCEMENT.—A State may bring, in the
23 name of the State and within the jurisdiction of the State,
24 a proceeding for the civil enforcement, or to restrain a vio-
25 lation, of final regulations issued pursuant to subsection

1 (b)(3)(C) if the food that is the subject of the proceeding
2 is located in the State.

3 **“SEC. 33. LIVESTOCK TRACEBACK.**

4 “(a) IN GENERAL.—

5 “(1) IDENTIFICATION.—For the purpose of un-
6 derstanding the nature of foodborne illness and
7 minimizing the risks of foodborne illness from poul-
8 try and poultry products distributed in commerce,
9 the Secretary shall, as the Secretary considers nec-
10 essary, prescribe by regulation that poultry pre-
11 sented for slaughter for human food purposes be
12 identified in a manner prescribed by the Secretary to
13 enable the Secretary to trace each poultry to any
14 premises at which the poultry has been held for such
15 period prior to slaughter as the Secretary considers
16 necessary to carry out this Act.

17 “(2) PROHIBITION OR RESTRICTION ON
18 ENTRY.—The Secretary may prohibit or restrict
19 entry into any slaughtering establishment inspected
20 under this Act of any poultry not identified as pre-
21 scribed by the Secretary.

22 “(b) RECORDS.—

23 “(1) IN GENERAL.—The Secretary may require
24 that a person required to identify poultry pursuant
25 to subsection (a) maintain accurate records, as pre-

1 scribed by the Secretary, regarding the purchase,
2 sale, and identification of the poultry.

3 “(2) ACCESS.—A person subject to paragraph
4 (1) shall, at all reasonable times, on notice by a duly
5 authorized representative of the Secretary, afford
6 the representative access to the place of business of
7 the person and an opportunity to examine the
8 records of the person and copy the records.

9 “(3) DURATION.—Any record required to be
10 maintained under this subsection shall be main-
11 tained for such period of time as the Secretary pre-
12 scribes.

13 “(c) FALSE INFORMATION.—No person shall falsify
14 or misrepresent to the Secretary or any other person any
15 information concerning the premises at which any poultry
16 were held.

17 “(d) MAINTENANCE OF RECORDS.—No person shall,
18 without authorization from the Secretary, alter, detach, or
19 destroy any records or other means of identification pre-
20 scribed by the Secretary for use in determining the prem-
21 ises at which were held any poultry.

22 “(e) HUMAN PATHOGENS OR OTHER HARMFUL SUB-
23 STANCES.—

24 “(1) IDENTIFICATION OF SOURCE.—If the Sec-
25 retary finds any human pathogen or any other po-

1 tentially harmful substance in any poultry at the
2 time the poultry is presented for slaughter or in any
3 poultry or poultry products prepared in an official
4 establishment and the Secretary finds that there is
5 a reasonable probability that human consumption of
6 any poultry or poultry product containing the human
7 pathogen or other potentially harmful substance pre-
8 sents a threat to public health, the Secretary may
9 take such action as the Secretary considers nec-
10 essary to determine the source of the human patho-
11 gen or other potentially harmful substance.

12 “(2) ACTION.—If the Secretary identifies the
13 source of any human pathogen or other potentially
14 harmful substance referred to in paragraph (1), the
15 Secretary may prohibit or restrict the movement of
16 any poultry or poultry products, or any other article
17 from any source of the human pathogen or other po-
18 tentially harmful substance until the Secretary de-
19 termines that the human pathogen or other poten-
20 tially harmful substance at the source no longer pre-
21 sents a threat to public health.

22 “(f) PRODUCERS AND HANDLERS.—

23 “(1) USE OF METHODS.—The Secretary shall
24 use any means of identification and recordkeeping
25 methods utilized by producers or handlers of poultry

1 whenever the Secretary determines that the means
2 of identification and recordkeeping methods will en-
3 able the Secretary to carry out this section.

4 “(2) COOPERATION.—The Secretary may co-
5 operate with producers or handlers of poultry in
6 which any human pathogen or other potentially
7 harmful substance described in subsection (e)(1) is
8 found, to develop and carry out methods to limit or
9 eliminate the human pathogen or other potentially
10 harmful substance at the source.

11 **“SEC. 34. NOTIFICATION AND RECALL OF NONCONFORM-**
12 **ING ARTICLES.**

13 “(a) NOTIFICATION.—Any person preparing poultry
14 or poultry products for distribution in commerce who ob-
15 tains knowledge that provides a reasonable basis for be-
16 lieving that any poultry or poultry products—

17 “(1) are unsafe for human consumption, adul-
18 terated, or not produced in accordance with section
19 30(a); or

20 “(2) are misbranded;
21 shall immediately notify the Secretary, in such manner
22 and by such means as the Secretary may by regulation
23 prescribe, of the identity and location of the articles.

24 “(b) RECALL.—

1 “(1) IN GENERAL.—If the Secretary finds, on
2 notification or otherwise, that any poultry or poultry
3 products—

4 “(A) are unsafe for human consumption,
5 adulterated, or not produced in accordance with
6 section 30(a); or

7 “(B) are misbranded;
8 the Secretary shall by order require any person en-
9 gaged in the processing, handling, transportation,
10 storage, importation, distribution, or sale of poultry
11 or poultry products to immediately cease any dis-
12 tribution of the poultry or poultry products, and to
13 recall the poultry or poultry products from commer-
14 cial distribution and use, if the Secretary determines
15 that there is a reasonable probability that the prod-
16 uct is unsafe for human consumption, adulterated,
17 or misbranded, unless the person is engaged in a
18 voluntary recall of the poultry or poultry products
19 that the Secretary considers adequate.

20 “(2) ORDER.—The order shall—

21 “(A) include a timetable during which the
22 recall shall occur;

23 “(B) require periodic reports by the person
24 to the Secretary describing the progress of the
25 recall; and

1 “(C) require notice to consumers to whom
2 the articles were, or may have been, distributed
3 as to how the consumers should treat the arti-
4 cle.

5 “(c) INFORMAL HEARING.—

6 “(1) IN GENERAL.—The order shall provide any
7 person subject to the order with an opportunity for
8 an informal hearing, to be held not later than 5 days
9 after the date of issuance of the order, on the ac-
10 tions required by the order.

11 “(2) VACATION OF ORDER.—If, after providing
12 an opportunity for the hearing, the Secretary deter-
13 mines that inadequate grounds exist to support the
14 actions required by the order, the Secretary shall va-
15 cate the order.

16 “(d) JUDICIAL RECALL.—A district court of the
17 United States may order any person engaged in the proc-
18 essing, handling, transportation, storage, importation, dis-
19 tribution, or sale of poultry or a poultry product to recall
20 the poultry or product if the court finds that there is a
21 reasonable probability that the poultry or poultry product
22 is unsafe for human consumption, adulterated, or mis-
23 branded.

1 **“SEC. 35. REFUSAL OR WITHDRAWAL OF INSPECTION.**

2 “(a) IN GENERAL.—The Secretary may, for such pe-
3 riod or indefinitely as the Secretary considers necessary
4 to carry out this Act, refuse to provide, or withdraw, in-
5 spections under this Act with respect to any official estab-
6 lishment if the Secretary determines, after opportunity for
7 a hearing is accorded to the applicant for, or recipient of,
8 the service that the applicant or recipient, or any person
9 connected with the applicant or recipient, has repeatedly
10 failed to comply with this Act.

11 “(b) INSPECTIONS PENDING REVIEW.—The Sec-
12 retary may direct that, pending opportunity for an expe-
13 dited hearing in the case of any refusal or withdrawal of
14 inspections and the final determination and order under
15 subsection (a) and any judicial review of the determination
16 and order, inspections shall be denied or suspended if the
17 Secretary considers the action necessary in the public in-
18 terest in order to protect the health or welfare of consum-
19 ers or to ensure the safe and effective performance of offi-
20 cial duties under this Act.

21 “(c) JUDICIAL REVIEW.—

22 “(1) IN GENERAL.—The determination and
23 order of the Secretary with respect to refusal or
24 withdrawal of inspections under this section shall be
25 final and conclusive unless the applicant for, or re-
26 cipient of, inspections files an application for judicial

1 review not later than 30 days after the effective date
2 of the order.

3 “(2) INSPECTIONS PENDING REVIEW.—Inspection
4 tions shall be refused or withdrawn as of the effective
5 date of the order pending any judicial review of
6 the order unless the Secretary or the Court of Appeals
7 directs otherwise.

8 “(3) VENUE; RECORD.—Judicial review of the
9 order shall be—

10 “(A) in the United States Court of Appeals
11 for the circuit in which the applicant for, or the
12 recipient of, inspections has the principal place
13 of business of the applicant or recipient or in
14 the United States Court of Appeals for the District
15 of Columbia Circuit; and

16 “(B) based on the record on which the determination
17 and order are based.

18 “(4) PROCESS.—Section 204 of the Packers
19 and Stockyards Act, 1921 (7 U.S.C. 194), shall be
20 applicable to appeals taken under this section.

21 “(d) ADDITIONAL AUTHORITY.—This section shall be
22 in addition to, and not derogate from, any provision of
23 this Act for refusal, withdrawal, or suspension of inspections
24 under this Act.

1 **“SEC. 36. CIVIL PENALTIES.**

2 “(a) IN GENERAL.—

3 “(1) ASSESSMENT.—A person who violates any
4 of sections 30 through 37, a regulation issued under
5 any of the sections, or an order issued under sub-
6 section (b) or (d) of section 34 may be assessed a
7 civil penalty by the Secretary of not more than
8 \$100,000 for each day of violation.

9 “(2) SEPARATE VIOLATION.—Each offense de-
10 scribed in paragraph (1) shall be considered to be a
11 separate violation.

12 “(3) NOTICE AND OPPORTUNITY FOR HEAR-
13 ING.—No penalty may be assessed against a person
14 under this section unless the person is given notice
15 and an opportunity for a hearing on the record be-
16 fore the Secretary in accordance with sections 554
17 and 556 of title 5, United States Code.

18 “(4) AMOUNT.—The amount of the civil penalty
19 shall be assessed by the Secretary by written order,
20 taking into account the gravity of the violation, the
21 degree of culpability, and any history of prior of-
22 fenses. The amount may be reviewed only as pro-
23 vided in subsection (b).

24 “(b) REVIEW.—

25 “(1) IN GENERAL.—A person against whom a
26 violation is found and a civil penalty assessed by

1 order of the Secretary under subsection (a) may ob-
2 tain review of the order in the United States Court
3 of Appeals for the circuit in which the party resides
4 or has a place of business or in the United States
5 Court of Appeals for the District of Columbia Cir-
6 cuit by filing a notice of appeal in the court not later
7 than 30 days after the date of the order and by si-
8 multaneously sending a copy of the notice by cer-
9 tified mail to the Secretary.

10 “(2) RECORD.—The Secretary shall promptly
11 file in the court a certified copy of the record on
12 which the violation was found and the penalty as-
13 sessed.

14 “(3) FINDINGS.—The findings of the Secretary
15 shall be set aside only if found to be unsupported by
16 substantial evidence on the record as a whole.

17 “(c) CIVIL ACTION TO RECOVER ASSESSMENT.—

18 “(1) IN GENERAL.—If a person fails to pay an
19 assessment of a civil penalty after the penalty has
20 become a final and unappealable order, or after the
21 appropriate Court of Appeals has entered final judg-
22 ment in favor of the Secretary, the Secretary shall
23 refer the matter to the Attorney General, who shall
24 institute a civil action to recover the amount as-

1 sessed in any appropriate district court of the Unit-
2 ed States.

3 “(2) SCOPE OF REVIEW.—In a recovery action
4 under paragraph (1), the validity and appropriate-
5 ness of the order of the Secretary imposing the civil
6 penalty shall not be subject to review.

7 “(d) DISPOSITION OF AMOUNTS.—All amounts col-
8 lected under this section shall be paid into the Treasury
9 of the United States.

10 “(e) EQUITABLE RELIEF.—

11 “(1) RELATIONSHIP TO OTHER ACTIONS.—
12 Nothing in this Act requires the Secretary to report
13 for criminal prosecution, or for the institution of an
14 injunction or other proceeding, a violation of this
15 Act, if the Secretary believes that the public interest
16 will be adequately served by assessment of civil pen-
17 alties.

18 “(2) MODIFICATION OF PENALTY.—The Sec-
19 retary may compromise, modify, or remit, with or
20 without conditions, any civil penalty assessed under
21 this section.

22 **“SEC. 37. WHISTLEBLOWER PROTECTION.**

23 “(a) IN GENERAL.—No person subject to this Act
24 may harass, prosecute, hold liable, or discriminate against
25 any employee or other person because the person—

1 “(1) is assisting or demonstrating an intent to
2 assist in achieving compliance with any Federal or
3 State law (including a rule or regulation);

4 “(2) is refusing to violate or assist in the viola-
5 tion of any Federal or State law (including a rule or
6 regulation); or

7 “(3) has commenced, caused to be commenced,
8 or is about to commence a proceeding, has testified
9 or is about to testify at a proceeding, or has assisted
10 or participated or is about to assist or participate in
11 any manner in such a proceeding or in any other ac-
12 tion to carry out the functions or responsibilities of
13 any agency, office, or unit of the Department of Ag-
14 riculture.

15 “(b) PROCEDURES AND PENALTIES.—The proce-
16 dures and penalties applicable to prohibited acts under
17 subsection (a) shall be governed by the applicable provi-
18 sions of section 31105 of title 49, United States Code.

19 “(c) BURDENS OF PROOF.—The legal burdens of
20 proof with respect to prohibited acts under subsection (a)
21 shall be governed by the applicable provisions of sections
22 1214 and 1221 of title 5, United States Code.”.

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